

## Testimony regarding HB 4932 -- sex offender school zone proposal

by Barbara R. Levine, executive director  
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Good morning. My name is Barbara Levine and I'm the executive director of CAPPS, the Citizens Alliance on Prisons and Public Spending. CAPPS is a non-profit public policy organization that advocates reducing the size of the prison system to the extent that is consistent with public safety so that our scarce resources can be shifted to other critical services. The brochure I have attached to my written testimony will tell you a little more about us.

CAPPS is concerned about this bill because of the impact it could have on the size of the prison population in particular and on the expenditure of scarce criminal justice resources in general. We believe that the myriad circumstances in which normal daily conduct would be criminalized, the difficulties of enforcement and the consequences of these new penalties all warrant very deliberate consideration.

We would not, of course, dispute that the public is rightfully fearful of people who would sexually molest children. Attempting to protect our children from this sort of harm is without doubt a legitimate and important goal of government. The question is only whether this very broad proposal is the most reasonable and effective way to achieve this goal.

HB 4932 is extremely broad in several ways. First, by including everyone who is on the sex offender registry, it fails to focus just on those offenders who actually pose a significant risk of preying on children. Unlike some states, Michigan's registry is highly inclusive and makes no distinctions among the types or seriousness of the offenses covered. Nor does it provide a way for people to obtain exemptions on a case-by-case basis.

Thus, the restrictions in this bill will apply for 25 years to people who realistically don't pose the slightest actual threat to children – to people who were convicted as teenagers of having sex with someone a few years younger than them, to people who got drunk and urinated on a bush or behind a building once too often, to people who solicited a prostitute who turned out to be 17, to people who got rowdy as college students and engaged in inappropriate sexual behavior in public. It is one thing to say that a former prisoner convicted of a sex offense cannot live near a school or reside in a house with children while on parole, as the parole board routinely says now. It is quite another to enforce this prohibition for decades, even on people whose offenses warranted no more than probation in the first place.

Second, the 1,000-foot "no residence" requirement will make it extremely difficult for people, especially those in urban areas, to find places to live. I have not yet had the opportunity to do the mapping, but given that this covers public, private and parochial schools from pre-kindergarten through high school, 1,000 feet in any direction covers a great deal of overlapping territory. In some communities, there may be literally nowhere that a former offender can reside. The residence prohibition is far different from a registry requirement that simply gives the public information. This provision hampers the ability to fill one of life's most basic needs – finding a decent place to live.

Third, the prohibition on working in a school zone will have incredibly broad consequences. . Of course it makes sense not to allow proven pedophiles to work with children. But this

proposal is not specifically targeted at all. Instead, there are two huge categories of jobs that will be affected.

There are those that are performed in a fixed location that happens to be within 1,000 feet of a school. Let's look at what this means in practical terms. A mile or two from here, on Verlinden Street, the GM Crafts Center was recently closed. That plant stood in a residential neighborhood and was bordered on one side by Verlinden Elementary School and on the other by Sexton High School. Under this bill, no one on the sex offender registry, no matter what their offense or how old it was, could work in that factory. Now go down the street to the Oldsmobile plant on Saginaw. It sits next to the Windemere Charter Academy. So no one on the registry could work at that plant either. Now picture a block in Grand Rapids or Detroit where a 10-story office building is located near a high school. No one on the registry will be able to work in that building either, as a claims adjuster or a secretary or a janitor, no matter how little risk to those high school students he or she actually poses.

Then there are the jobs for which a person has to be mobile -- jobs that might at any time bring you into a neighborhood near a school. What employer is going to take the risk of hiring a former sex offender knowing that the person will not be able to do the job without committing a crime? The list of jobs that people on the registry will not be able to get, for 25 years, will include: mail carrier, garbage truck driver, snow plow driver, copier repair person, package delivery, furniture or appliance delivery, landscaping, roofing, lawn sprinkler installation, home construction or remodeling, road construction or repair, telephone/electric/cable line repairman. The list goes on and on and on. Ask yourself: are children really safer because everyone on the sex offender registry is effectively prohibited from working for Verizon or UPS or on a city trash truck or a county road crew or for the post office?

The breadth of the proposal is heightened even further by the definition of school property. How in the world is anyone supposed to know what real estate a private school owns or leases? Yet the bill does not appear to even include a requirement of actual knowledge that property not being used for teaching children is "owned, leased or otherwise controlled by a school".

The ultimate practical question is: how will we enforce these provisions? Will state or local police be required to check every registered sex offender's address against a map? And how will we keep track of where people are working and when they enter prohibited space as part of their job? The risks, of course, are that law enforcement and judicial resources will be stretched even thinner, that jail and prison beds will start filling with school zone offenders who have not actually harmed anyone or even spoken to a child, and that sex offenders will just stop registering. If faced with the risk of going to prison for failing to register or not being able to find a home or a job, a lot of people will just go underground. They'll move to a different town, change their name, do whatever it takes to start fresh and avoid discovery. The more secretive we force these offenders to be just to survive, the more our ability to track their whereabouts will actually be reduced.

Attached to my testimony is a copy of a May 29<sup>th</sup> editorial from the Detroit News that raises many of these questions and others as well. It is an extremely clear-headed piece that urges you not to adopt blanket restrictions that may do more harm than good. It suggests focusing instead on narrowly tailored measures that might actually protect our children from those who present a genuine risk. I hope you will read the editorial and I thank you for the opportunity to speak.

# The Detroit News

Founded August 23, 1873



A GANNETT NEWSPAPER  
PUBLISHED DAILY, SATURDAY AND SUNDAY

## EDITORIALS

# Sex Offender Rule for Schools May Not Work

*Proposed 1,000-foot 'predator-free zone'  
for schools deserves hard questions*

**S**ex offenders do pose a risk to society. But serious questions have to be asked about a proposal to create a 1,000-foot "predator-free zone" around all schools in the state.

The Detroit News recently reported that about 1,900 of the state's 19,000 registered sex offenders, or one in 10, lives near a school. But would a rule barring all offenders from living within 1,000 feet of a school really be an effective form of protection for the state's children?

More focused approaches on identifying, restricting and treating the most dangerous parolees with a history of child sex abuse may be a better way to handle the risk.

As John LaFond, a professor at the University of Missouri-Kansas City who has studied attempts to treat and control sex offenders, told The News, such proposals as the school zone can be "futile, costly and ineffective gestures to falsely assure the community that they're going to be safe."

LaFond told The News he was worried that get-tough proposals in a number of states would isolate sex offenders, removing them from home environments where they could get treatment and jobs, increasing the odds they could commit new offenses.

Such measures also could tie up resources that should be directed toward keeping a close watch on offenders who are most likely to perpetrate new crimes, he said. Not all sex offenders pose an equal level of risk, LaFond noted to The News.

Such zones would be hard to enforce. And would children at a given school be any safer if a known sex offender lived 1,020 feet from a school

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rather than 980 feet away?

Also, not all sex offenders have been caught and convicted. The 1,000-foot barrier, like the state's registry of sex offenders, may create a false sense of security.

And there is a basic civil liberties issue. The school zones and even the state's registry of sex offenders create a form of perpetual punishment that contradicts the notion of a prison term as payment of a debt to society, with former inmates being allowed a clean slate to remake their lives free of vigilantism and harassment.

Certainly, the worries of parents when a sex offender is in the neighborhood are legitimate and must be treated with respect. Plans for reassuring them might include concentrating on identifying those child molesters who pose the greatest threat of recidivism and devoting intensive resources on monitoring and treating them.

In addition, post-release treatment of any convicted child molesters might include ensuring they have appropriate jobs and forbidding them to hold such posts as child day care center worker, school bus driver or other school-related employee.

These procedures may be more effective in protecting children than a blanket zone around schools that makes no distinctions among offenders and may even be counterproductive.